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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,298	04/20/2004	Peter D. Gonzales	24294.00	2571
37833 7590 04/01/2008 LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215				
EXAMINER				
LEE, CLOUD K				
ART UNIT		PAPER NUMBER		
3753				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/827,298

**Applicant(s)**

GONZALES, PETER D.

**Examiner**

CLOUD K. LEE

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1.5-8,10-14 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.5-8,10-14 and 17-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant is correct in that his amendment of October 07 was filed on the 10<sup>th</sup> October 07.
2. The Office acknowledges that the application was not filed under the accelerated examination program.

***Election/Restrictions***

3. Upon reconsideration, all species are seen as obvious variants of each other. Therefore, there is no outstanding election requirement.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 12-14, 17, 19-21, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rollins et al (US Patent No. 2,916,182).

Rollins et al. disclose a device and its associated method comprising, a retention tank (5), a pipe extending from the retention tank (5), a pipe inlet (6) device having a tubular body (see figure 1) having a hollow neck portion (11) wherein the tubular body is made from metal (see Col 2 lines 32-35), the neck portion having an open first end, a rounded, non-circular elliptical shape rim (13, also see Col 2 lines 59-68, Rollins et al states the section 13 is not limited to a

“semi-circular” shape, but any preferred shape, such as a slightly elliptical) curving outward and rearward from the mouth and forming a skirt terminating in a lip (15), wherein the neck portion is cylindrical throughout its length (see figure 1).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al (US Patent No. 2,916,182).

Rollins et al. disclose a non-circular elliptical rim (13, see Col 2 lines 59-68) defines a mouth opening into the neck portion and the shape of the mouth is not limited to a “semi-circular” shape, but any preferred shape. However, Rollins et al does not explicitly disclose the mouth opening has a trumpet bell shape. It would have been an obvious matter in view of the teachings of Rollins et al. to change the shape of the mouth opening of Rollins et al to allow flow improvements, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art because Rollins et al explicitly stated that the mouth opening is not limited to a “semi-circular” shape, but any preferred shape. In re Dailey, 357 F.2d 669, 149 USPQ 457 (CCPA 1966).

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al in view of Truax et al (US Patent No. 6,682,021).

Rollins et al. fail to disclose an inner surface of the device includes boundary layer turbulators.

Truax et al disclose an inner surface of the device includes boundary layer turbulators (see figure 4A, element 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device includes boundary layer turbulators in order to improve fluid flow behavior as taught by Truax et al (see Col 6 lines 42-53).

9. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al in view of Clark (US Patent No. 1,608,547).

Rollins et al. fail to disclose an inner surface of the device comprising a plurality of ribs and grooves extending into the fluid pathway.

Clark discloses an inner surface of the device comprising a plurality of ribs (8, 9, 10 and 11) and grooves (between the ribs 8, 9, 10 and 11 are grooves) extending into the fluid pathway. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device comprising a plurality of ribs and grooves

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extending into the fluid pathway in order to create a rotation motion in the fluid and pull the solid in the fluid to reach the center of the pipe as taught by Clark (see lines 32-55).

10. Claims 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al. in view of Thompson (US Patent No. 6,357,966).

Rollins et al. fail to disclose the tubular body is made from plastic or high density polyethylene.

Thompson discloses a pipe that is made from plastic and high density polyethylene (see Col 1 lines 6-14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body from plastic or high density polyethylene in order prevent corrosion as taught by Thompson (see Col 1 lines 6-14).

### ***Response to Arguments***

11. Applicant's arguments filed 12/31/07 have been fully considered but they are not persuasive.

In response to applicant's argument that Rollins et al. fails to disclose a non-circular rim and the rim defines a mouth opening. Rollins et al. disclose a rounded, non-circular rim (13). Rollins explicitly discloses the section 13 is not limited to a "semi-circular" shape, but any preferred shape, such as a slightly elliptical. While Fig. 1 shows a radius R1, indicating a circular cross section, the specification (Col 2 line 63-64), "The invention is not, however, limited to annular lining sections which conform exactly to this [circular torus] geometric preferred shape."

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A slightly elliptical shape rim is a non-circular rim, therefore, Rollins et al's device meets the claimed invention.

*Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLOUD K. LEE whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Hepperle/  
Primary Examiner, Art Unit 3753

CL